

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

ARK115 DOE,

Plaintiff,

v.

DIOCESE OF BROOKLYN a/k/a
THE ROMAN CATHOLIC
DIOCESE OF BROOKLYN, NEW
YORK; ORDER OF FRIARS
MINOR a/k/a FRANCISCAN
FRIARS a/k/a FRANCISCAN
FATHERS a/k/a FRANCISCAN
FRIARS - HOLY NAME
PROVINCE a/k/a PROVINCE OF
THE IMMACULATE
CONCEPTION (FRIARS MINOR
OF THE ORDER OF ST. FRANCIS)
a/k/a FRANCISCAN PROVINCE
OF THE IMMACULATE
CONCEPTION a/k/a CUSTODY
OF ST. CASIMIR; OUR LADY OF
PEACE; and DOES 1-5 whose
identities are unknown to Plaintiff,

Defendants.

Index No. _____

SUMMONS**TO THE ABOVE NAMED DEFENDANTS:**

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Complaint, a copy of which is hereby served upon you, and to serve a copy of your Answer to the Complaint upon the undersigned attorneys listed below within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered

to you within the State of New York); and in the case of your failure to appear or answer, judgment by default will be taken against you for the relief demanded herein.

Dated: September 9, 2019
New York, New York

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**COMPLAINT
AND DEMAND
FOR JURY TRIAL**

From approximately the years of 1952 through 1956, Br. Maseo Butteri, O.F.M. sexually abused Plaintiff as a child. From approximately the years of 1953 through 1954, Fr. Rudolph Manozzi, O.F.M. sexually abused Plaintiff as a child. While the abuse occurred, Defendants were generally negligent, they negligently employed Br. Butteri and Fr. Manozzi and gave them access to children, including Plaintiff. This lawsuit arises out of Plaintiff's significant damages from that sexual abuse, described below. Plaintiff,

by and through Plaintiff's attorneys, states and alleges as follows:

PARTIES

A. Plaintiff

1. At all times material to this Complaint, Plaintiff was a parishioner, student, and altar boy at Our Lady of Peace in Brooklyn, New York. At all times material, Plaintiff resided in the State of New York.

2. Plaintiff brings this action under a pseudonym with leave of Court.

A. Defendants

3. Whenever reference is made to any Defendant entity, such reference includes that entity, its parent companies, subsidiaries, affiliates, predecessors, and successors. In addition, whenever reference is made to any act, deed, or transaction of any entity, the allegation means that the entity engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of the entity's business or affairs.

4. At all times material, Defendant Diocese of Brooklyn a/k/a The Roman Catholic Diocese of Brooklyn, New York ("Diocese") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of New York with its principal place of business at 310 Prospect Park West, Brooklyn, NY 11215.

5. The Diocese was created in approximately 1853. Later, the Diocese created

a corporation called the Roman Catholic Diocese of Brooklyn, New York to conduct some of its affairs. The Diocese operates its affairs as both a corporate entity and as the organization known as the Diocese of Brooklyn. Both of these entities and all other affiliated corporations and entities controlled by the Bishop are included in this Complaint as the "Diocese." The Diocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services.

6. The Diocese has several programs that seek out the participation of children including, but not limited to, schools and other educational programs. The Diocese, through its officials, has complete control over those activities and programs involving children. The Diocese has the power to appoint, train, supervise, monitor, remove, and terminate each and every person working with children within the Diocese.

7. At all times material, Defendant Order of Friars Minor a/k/a Franciscan Friars a/k/a Franciscan Fathers a/k/a Franciscan Friars - Holy Name Province a/k/a Province of the Immaculate Conception (Friars Minor of the Order of St. Francis) a/k/a Franciscan Province of the Immaculate Conception a/k/a Custody of St. Casimir ("Franciscan Friars") was and continues to be a religious order of priests and/or brothers affiliated with the Roman Catholic Church with its provincial headquarters and principal place of business located at 129 West 31st Street, 2nd Floor, New York, New York 10001 and/or 125 Thompson Street, New York, New York 10012.

8. The Franciscan Friars are an organization or entity that includes, but is not limited to, civil corporations, decision making entities, officials, and employees,

authorized to conduct business and conducting business in the State of New York. The provincial is the top official of the Franciscan Friars and is given authority over all matters dealing with the Franciscan Friars as a result of his position. The Franciscan Friars function as a business by engaging in numerous revenue producing activities and soliciting money in exchange for its services.

9. The Franciscan Friars have several programs that seek out the participation of children, including, but not limited to, schools and other educational programs. The Franciscan Friars, through its officials, have complete control over those activities involving children. The Franciscan Friars have the power to appoint, train, supervise, monitor, remove, and terminate each person working with children within the Franciscan Friars.

10. At all times material, Defendant Our Lady of Peace was and continues to be an organization authorized to conduct business and conducting business in the State of New York, with its principal place of business at 522 Carroll St, Brooklyn, NY 11215. Our Lady of Peace includes, but is not limited to, Our Lady of Peace and any other organizations and/or entities operating under the same or similar name with the same or similar principal place of business.

11. At all times material, Defendant Our Lady of Peace was and continues to be under the direct authority, control, and province of Defendant Diocese, the Bishop of Defendant Diocese, and Defendant Franciscan Friars. Defendant Our Lady of Peace includes any school affiliated with Our of Lady of Peace. At all times material, Defendant Our Lady of Peace School was under the direct authority, control, and province of

Defendant Diocese, the Bishop of Defendant Diocese, and Defendant Franciscan Friars. At all times material, Defendants Our Lady of Peace, Diocese, and Franciscan Friars owned, operated, managed, maintained, and controlled Our Lady of Peace School.

12 Defendants Does 1 through 5 are unknown agents whose identities will be provided when they become known pursuant to C.P.L.R. § 1024.

JURISDICTION

13 This Court has jurisdiction pursuant to C.P.L.R. § 301 as Defendants' principal places of business are in New York and because the unlawful conduct complained of herein occurred in New York.

14 Venue is proper pursuant to C.P.L.R. § 503 in that Kings County is the principal place of business of Defendant Diocese. In addition, many of the events giving rise to this action occurred in Kings County.

FACTUAL ALLEGATIONS

A. Background

15 The hierarchy of the Roman Catholic Church and, by implication these Defendants, have been aware of the serious problem of clergy sexual abuse of children since at least the 1800s.

16 Further, Roman Catholic Church officials, including these Defendants, have used their power and influence to prevent victims and their families from disclosing allegations of abuse.

17 Additionally, Plaintiff's relationship to Defendants, Br. Butteri, and Fr. Manozzi, as a vulnerable child, parishioner, student, and altar boy at Our Lady of Peace

was one in which Plaintiff was subject to the ongoing influence of Defendants, Br. Butteri and Fr. Manozzi, Plaintiff's abusers.

A. Specific Allegations

18. At all times material, Br. Butteri and Fr. Manozzi were Roman Catholic clerics employed by the Diocese, Franciscan Friars, and Our Lady of Peace. Br. Butteri and Fr. Manozzi remained under the direct supervision, employ, and control of Defendants.

19. Defendants placed Br. Butteri and Fr. Manozzi in positions where they had access to and worked with children as an integral part of their work.

20. Plaintiff was raised in a devout Roman Catholic family and attended Our Lady of Peace in Brooklyn, in the Diocese. Plaintiff and Plaintiff's family came in contact with Br. Butteri and Fr. Manozzi as agents and representatives of Defendants, and at Our Lady of Peace.

21. Plaintiff, as a youth, participated in activities at Our Lady of Peace. Plaintiff, therefore, developed great admiration, trust, reverence, and respect for the Roman Catholic Church, including Defendants and their agents, including Br. Butteri and Fr. Manozzi. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on Defendants, Br. Butteri, and Fr. Manozzi. Defendants had custody of Plaintiff and accepted the entrustment of Plaintiff and, therefore, had responsibility for Plaintiff and authority over Plaintiff.

22. From approximately 1952 to 1956, when Plaintiff was approximately 9 to 13 years old, Br. Butteri engaged in unpermitted sexual contact with Plaintiff.

23. From approximately 1953 to 1954, when Plaintiff was approximately 10 to 11 years old, Fr. Manozzi engaged in unpermitted sexual contact with Plaintiff.

COUNT I: NEGLIGENCE

24. Plaintiff realleges paragraphs 1-23 above.

25. Each Defendant owed Plaintiff a duty of reasonable care to protect the Plaintiff from injury.

26. Each Defendant owed Plaintiff a duty of care because each Defendant had a special relationship with Plaintiff.

27. Defendants also had a duty arising from the special relationship that existed with Plaintiff, Plaintiff's parents, and other parents of young, innocent, vulnerable children in the Diocese to properly train and supervise its clerics. This special relationship arose because of the high degree of vulnerability of the children entrusted to their care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendants had a duty to establish measures of protection not necessary for persons who are older and better able to safeguard themselves.

28. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because each Defendant also had a special relationship with Br. Butteri and Fr. Manozzi.

29. Defendants owed Plaintiff a duty of reasonable care because they solicited youth and parents for participation in their youth programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held their agents, including Br. Butteri and Fr. Manozzi, out as safe to work with

children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Br. Butteri and Fr. Manozzi, to spend time with, interact with, and recruit children.

30. By accepting custody of the minor Plaintiff, Defendants established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect Plaintiff from injury. Further, Defendants entered into a fiduciary relationship with Plaintiff by undertaking the custody, supervision of, and/or care of the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the Plaintiff, Defendants also held a position of empowerment over Plaintiff. Further, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. Defendants, through its employees, exploited this power over Plaintiff and, thereby, put the minor Plaintiff at risk for sexual abuse.

31. By establishing and/or operating the Diocese, the Franciscan Friars, and Our Lady of Peace, accepting the minor Plaintiff as a participant in their programs, holding their facilities and programs out to be a safe environment for Plaintiff, accepting custody of the minor Plaintiff *in loco parentis*, and by establishing a fiduciary relationship with Plaintiff, Defendants entered into an express and/or implied duty to properly supervise Plaintiff and provide a reasonably safe environment for children, who participated in their programs. Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from foreseeable dangers. Defendants had the duty to exercise the same degree of care over minors under their control as a reasonably prudent person

would have exercised under similar circumstances.

32. By establishing and operating the Diocese, the Franciscan Friars, and Our Lady of Peace, which offered educational programs to children and which may have included a school, and by accepting the enrollment and participation of the minor Plaintiff as a participant in those educational programs, Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

33. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendants invited Plaintiff onto their property and Br. Butteri and Fr. Manozzi posed dangerous conditions on Defendants' property.

34. Each Defendant breached its duties to Plaintiff. Defendants failed to use ordinary care in determining whether their facilities were safe and/or determining whether they had sufficient information to represent their facilities as safe. Defendants' breach of their duties include, but are not limited to: failure to protect Plaintiff from a known danger, failure to have sufficient policies and procedures in place to prevent child sex abuse, failure to properly implement policies and procedures to prevent child sex abuse, failure to take reasonable measures to ensure that policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train the employees at institutions and programs within Defendants' geographical confines, failure to train the minors within Defendants' geographical confines about the dangers of sexual abuse by clergy, failure to have any outside agency test their safety procedures, failure to protect the children in their programs from child

sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and people as safe, failure to train their employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

35. Defendants also breached their duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Br. Butteri and Fr. Manozzi posed and the risks of child sexual abuse in Catholic institutions. They also failed to warn them about any of the knowledge that Defendants had about child sexual abuse.

36. Defendants additionally violated a legal duty by failing to report known and/or suspected abuse of children by Br. Butteri and Fr. Manozzi and/or its other agents to the police and law enforcement.

37. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Br. Butteri and Fr. Manozzi were not fit to work with children. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware of Br. Butteri's and Fr. Manozzi's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at Our Lady of Peace and other Catholic institutions within the Diocese were safe.

38. Defendants knew or should have known that there was a risk of child sex

abuse for children participating in Catholic programs and activities within the Diocese. At the very least, Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.

39. Defendants knew or should have known that Defendants had numerous agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. They knew or should have known that there was a specific danger of child sex abuse for children participating in their youth programs.

40. However, despite this knowledge, Defendants negligently deemed that Br. Butteri and Fr. Manozzi were fit to work with children; and/or that any previous suitability problems Br. Butteri and Fr. Manozzi had were fixed and cured; and/or that Br. Butteri and Fr. Manozzi would not sexually molest children; and/or that Br. Butteri and Fr. Manozzi would not injure children.

41. Defendants' actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child participating in the programs and activities Defendants offered to minors, Plaintiff was a foreseeable victim. Additionally, as a vulnerable child who Br. Butteri and Fr. Manozzi had access to through Defendants' facilities and programs, Plaintiff was a foreseeable victim.

42. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiff were caused solely and wholly by reason of the negligent failures of

Defendants.

COUNT II: NEGLIGENT TRAINING AND SUPERVISION OF EMPLOYEES

43. Plaintiff realleges paragraphs 1-42 above.

44. At all times material, Br. Butteri and Fr. Manozzi were employed by Defendants and were under each Defendant's direct supervision, employ, and control when they committed the wrongful acts alleged herein. Br. Butteri and Fr. Manozzi engaged in the wrongful conduct while acting in the course and scope of their employment with Defendants and/or accomplished the sexual abuse by virtue of their job-created authority.

45. Defendants had a duty, arising from their employment of Br. Butteri and Fr. Manozzi, to ensure that they did not sexually molest children.

46. Further, Defendants owed a duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent, and address inappropriate behavior and conduct between clerics and children.

47. Defendants were negligent in the training, supervision, and instruction of their employees. Defendants failed to timely and properly educate, train, supervise, and/or monitor their agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child is suspected or observed. Defendants were additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Br. Butteri and Fr. Manozzi and/or in failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Br. Butteri's and Fr.

Manozzi's sexual abuse of Plaintiff. In failing to properly supervise Br. Butteri and Fr. Manozzi, and in failing to establish such training procedures for employees and administrators, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

48. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiff were caused solely and wholly by reason of the negligent failures of Defendants in the training and/or supervising of its employees.

COUNT III: NEGLIGENT RETENTION OF EMPLOYEES

49. Plaintiff realleges paragraphs 1-48 above.

50. At all times material, Br. Butteri and Fr. Manozzi were employed by Defendants and were under each Defendant's direct supervision, employ, and control when they committed the wrongful acts alleged herein.

51. Defendants negligently retained Br. Butteri and Fr. Manozzi with knowledge of Br. Butteri's and Fr. Manozzi's propensity for the type of behavior which resulted in Plaintiff's injuries in this action. Defendants failed to investigate Br. Butteri's and Fr. Manozzi's past and/or current history of sexual abuse and, through the exercise of reasonable diligence, should have known of Br. Butteri's and Fr. Manozzi's propensity for child sexual abuse. Defendants should have made an appropriate investigation of Br. Butteri and Fr. Manozzi and failed to do so. An appropriate investigation would have revealed the unsuitability of Br. Butteri for continued employment and it was unreasonable for Defendants to retain Br. Butteri in

light of the information they knew or should have known.

52 Defendants negligently retained Br. Butteri and Fr. Manozzi in positions where they had access to children and could foreseeably cause harm which Plaintiff would not have been subjected to had Defendants taken reasonable care.

53. In failing to timely remove Br. Butteri and Fr. Manozzi from working with children or terminate the employment of Br. Butteri and Fr. Manozzi, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

54 As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiff were caused solely and wholly by reason of the negligent failures of Defendants in the retention of its employees.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing causes of action, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate Plaintiff for Plaintiff's injuries and damages, and for any other relief the Court deems appropriate. The amount of damages sought in this Complaint exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

JURY DEMAND

Plaintiff demands a trial by jury of all issues so triable. Pursuant to §4 of the New York Child Victims Act, Plaintiff is entitled to a trial preference.

Dated: September 9, 2019
New York, New York

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